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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,183	07/10/2001	Michael Steffen	72.049	8529

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/889,183	Applicant(s) STEFFEN, MICHAEL	
	Examiner Raymond W. Addie	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a soil compaction device having phase relationship eccentric masses for propelling the device forwards and backwards, does not reasonably provide enablement for a soil compaction device that can be moved in a yawing or curvilinear path. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The specification does not disclose the necessary structure for causing a horizontal force perpendicular to the longitudinal axis of the device, such that the horizontal force generated causes a yawing moment. Specifically, Claims 1, 13 only requires at least 2 eccentric weights that rotate in opposite directions.

Further, How does the positioning unit control the direction of travel and steer the device? What elements constitute a "positioning unit" and of those elements, which ones control the direction of travel? Which ones control the steering of the device; and how are those elements activated by the sensor unit signal?

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 13, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waschulewski # 4,440,034 in view of Crum et al. # 6,276,230.

Waschulewski discloses a soil compacting device (10) comprising:

An oscillator that has at least 2, contra-rotating eccentric masses (20), whose phase relationship can be adjusted relative to one another by means of a positioning unit (36).

At least one moving operator element (60) to control the positioning unit (36).

Although Waschulewski does not specifically recite a "soil contact plate", it is inherent that all soil compacting devices, known as "vibratory plates" or "vibratory compactors"; must have a soil compacting/contacting plate in order to transmit a compacting force to the soil being compacted. Which is different from other vibrating devices, such as a compacting, vibrating roller, also known as a steam roller.

What Waschulewski does not disclose is the use of a position sensor.

However, Crum et al. teaches a handle bar mounted controller for powered machinery, which is actuated to change the position of a movable element, further comprises:

A position sensor (10) in the form of a resistive sensor or a Hall effect type potentiometer, for determining the position of the operator element and to produce a signal to control a positioning unit.

Said sensor arrangement permits the elimination of cables and linkages and offers a control that can interface directly with electronic engine controls.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to provide the soil compactor of Waschulewski, with the position sensor arrangement taught by Crum et al., in order to provide more precise control of the vibrating machine. See Waschulewski col. 6, line 6-col. 7, line 26; Crum et al. col. 4, line 14-col. 6, line 44.

3. Claims 1, 3-5, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoecker # 3,832,080 in view of Ishibashi et al. # 6,448,768.

Stoecker discloses a soil compaction device comprising:

A soil contact plate (2).

An oscillator (3) that has at least 2 eccentric masses that counter rotate and whose phase relationship can be adjusted relative to one another by means of a positioning unit (93, 111), wherein excitation of the eccentric weights acts on the soil contact plate.

At least one moving operator element (116) to control the positioning unit (93, 111). Stoecker does not disclose the use of a position sensor. However, Ishibashi et al. teaches a magnetic sensor with a signal processing circuit in the form of a resistive sensor, and a Hall effect IC sensor, For use as a proximity switch, current sensors or encoders. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the handle operated soil compactor of Stoecker, with a position sensor, in order to increase the accuracy and reliability of the positioning unit. See Stoecker col. 2, lines 52- 65, col. 5, line 20-col. 6, line 16; Ishibashi et al. col. 1, line 11-57, 7, line 45-col. 9, line 47.

In regards to Claims 3-5 Ishibashi et al. teaches the use of a sensor unit in the form of a Hall effect IC sensor, which comprises a plurality of resistors, in order to function as a proximity switch. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compactor of Stoecker, with the sensor unit of Ishibashi et al., in order to increase the accuracy and reliability of the positioning unit. See Ishibashi col. 4.

In regards to Claim 8 Stoecker discloses the operator element (16,165) can be tilted away from a spring effect, from a zero position. While in the zero position the overall force resulting from the rotating eccentric masses has no horizontal component. See Stoecker col. 6, line 46-col. 7, ln 25.

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4. Claims 2, 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoecker in view of Ishibashi et al. as applied to claim 1 above, and further in view of Riedl # 4,356,736.

Stoecker in view of Ishibashi et al. discloses the claimed invention to include In regards at least one moving operator element (116) and can be preferably provided as a plurality of kick plates, mounted near the bottom of the compactor but also discloses "any suitable means may be provided to move shift lever 93, in the manner described".

Further, Riedl '736 teaches a vibration generator and control assembly comprising:

A plurality of counter rotating eccentric weights (2a, 3a) mounted on shafts (2, 3) such that the phase position of the eccentric weights is adjustable via an adjustment assembly (9, 10, 11) and actuated by an operating element (13).

Riedl '736 further teaches providing an operational feedback via a sender or transmitter means (12), such that the back or return pressure is maintained by a dampening effect, caused by the adjustment assembly (9-11). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the compactor of Stoecker in view of Ishibashi et al., with a phase adjustment assembly, as taught by Riedl '736, in order to maximize operator control of the soil compactor.

See Stoecker col. 5, ln 28-57, col. 7, ln 5-25; Riedl '736 Abstract; Col. 1, Ins. 4-28; Col. 2, ln. 22-Col. 3, ln. 28.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stoecker in view of Ishibashi et al., as applied to claim 1 above, and further in view of Artzberger # 4,779,418.

Stoecker in view of Ishibashi et al. discloses essentially all that is claimed as put forth with respect to claim 1, except for the use of a remote control. However, Artzberger '418 teaches it is desirable to provide a remote control unit, having a sending unit, which is capable of controlling the speed and direction of travel of a soil compacting machine. Therefore, it would have been obvious to provide the soil compactor of Stoecker in view of Ishibashi et al. with a remote control unit, as taught by Artzberger, in order to operate the compactor in a dangerous environment, such as a deep trench, from a remote location. See Artzberger col. 2-3.

6. Claims 1-6, 8, 13, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedl # 5,010,778 in view of Crum et al. # 6,276,230.

Riedl discloses a soil compactor (1) comprising:

A soil contact plate (M).

An oscillator (2) that acts on the soil contact plate, and further comprises:

at least 2 eccentric masses (15) on each of 2 unbalanced shafts.

Said at least 2 eccentric masses having an adjustable phase relationship for providing a "self-propelled" feature to the compactor.

A positioning unit (10/12) for adjusting the phase relationship of the at least 2 eccentric masses on each of said 2 unbalanced shafts.

At least one moving operator element, attached to a hydraulic control valve (18), illustrated in Fig. 1, to control the positioning unit (10/12).

What Riedl does not disclose is the use of a position sensor. However, Crum et al. teaches a handle bar mounted controller for powered machinery, which is actuated to change the position of a movable element, further comprises:

A position sensor (10) in the form of a resistive sensor or a Hall effect type potentiometer, for determining the position of the operator element and to produce a signal to control a positioning unit. Said sensor arrangement permits the elimination of cables and linkages and offers a control that can interface directly with electronic engine controls. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to provide the soil compactor of Riedl, with the position sensor arrangement taught by Crum et al., in order to provide more precise control of the vibrating machine. Further, although Riedl illustrates but does not specifically disclose a moving operator element for controlling the positioning unit; it would be well within the skill of one in the art to provide a soil compactor with a control lever, to control the positioning unit.

See Riedl Abstract, col. 2, lines 20-68, Col. 5; Crum et al. col. 4, line 14-col. 6, line 44.

In regards to Claims 2, 3, 5 Riedl discloses essentially all that is claimed, except for where the operator element is disposed upon the soil compactor. However, Crum et al. teaches it is desirable to provide an operators control lever/moving operator element and a proximity switch, in the form of resistive sensor, on a handle bar of a vehicle or machine, in order to provide the operator easy access to the control lever.

In regards to Claim 4 Crum et al. teaches the use of a Hall effect sensor, having a transmitting element connected to an operator element. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the soil compactor of Riedl, with a Hall effect sensor, as taught by Crum et al., in order to increase the accuracy and reliability of the positioning unit.

In regards to Claim 6 Riedl discloses a soil compaction device having a fluid-activated piston/cylinder positioning unit (12) and an electromechanical valve (18) to control a fluid stream to the piston/cylinder unit. What Riedl does not disclose is controlling the positioning unit via a signal generated by a position sensor unit. However, Crum et al. teaches it is desirable to provide a position sensor, in the form of a Hall effect sensor, for producing a signal that can control various engine components and/ or electronic engine controls.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the soil compactor of Riedl, with a control lever position sensor, as taught by Crum et al., in order to increase accuracy and reliability of the control lever and the components actuated by said control lever.

In regards to Claim 8 Riedl discloses the rotating eccentric masses can be adjusted such that no net horizontal component is generated. Riedel further discloses the positioning unit and the phase relationship between the eccentric weights can be controlled by a 3 position electromechanical valve (18), corresponding to a forward, neutral and reverse direction of travel of the soil compactor. Hence, it is obvious that a operator's element must be provided and tilted in a direction away from a zero position (neutral position), in order to move the compactor either forward or backward.

Further, Crum et al. teaches a position sensor (105, 205) can be connected to an operator's element (100, 200) and include a spring to provide a return force, in order to bias a control lever/operator's element toward a neutral position. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the soil compactor of Riedl, with a position sensor, as taught by Crum et al., in order to control the phase relationship of the eccentric weights, and to bias the phase relationship to have no net horizontal component. Thereby biasing the soil compactor in a neutral position.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedl 5,010,778 in view of Crum et al., as applied to claim 1 above, and further in view of Sutherland # 3,972,637.

Riedl '778 in view of Crum et al. discloses essentially all that is claimed, as put forth with respect to claim 1 above, but does not disclose the use of vibration dampeners.

However, Sutherland teaches it is desirable to provide rubber collars (unnumbered, see fig. 9), on a vibration mechanism, to dampen vibrational forces from being transmitted into an operating element (27, 61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to provide the soil compactor of Riedl '778 in view of Crum et al., with rubber, vibration dampeners, as taught by Sutherland, in order to reduce fatigue experienced by an operator.

See Sutherland Col. 2, ln. 55-col. 3, ln. 29.

8. Claims 7, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedl in view of Crum et al., as applied to claim 1 above, and further in view of Garnjost et al. # 5,347,884.

Riedl in view of Crum et al. discloses essentially all that is claimed, to include a group of rotating eccentric masses, which can have an adjustable phase relationship. What Riedl in view of Crum et al. do not disclose is providing a plurality of control levers to control the phase relationship of the rotating eccentrics. However, Garnjost et al. '884 teaches it is desirable to provide a plurality of control levers (24A,B,C,D,E,F) to control a

plurality of rotating eccentric weights. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the soil compactor of Riedl in view of Crum et al. with a plurality of control levers, as taught by Garnjost et al., in order to increase the accuracy of controlling the phase relationship between groups of rotating eccentrics. See Garnjost et al., Abstract, Col. 1, line 50-col. 4, line 52.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riedl in view of Crum et al., as applied to claim 1 above, and further in view of Artzberger # 4,779,418.

Riedl in view of Crum et al. discloses essentially all that is claimed, except for the use of a remote control. However, Artzberger '418 teaches it is desirable to provide a remote control unit, having a sending unit, which is capable of controlling the speed and direction of travel of a soil compacting machine. Therefore, it would have been obvious to provide the soil compactor of Riedl in view of Crum et al. with a remote control unit, as taught by Artzberger, in order to operate the compactor in a dangerous environment, such as a deep trench, from a remote location. See Artzberger col. 2-3.

Response to Arguments

10. Applicant's arguments filed 1/14/2003 have been fully considered but they are not persuasive.

Applicant argues against the rejection of Claims 1, 3-5 as being unpatentable over Waschulewski in view of Crum et al. by stating "the Bowden cable (60) of Waschulewski provides a teaching of the operator element of the claimed type".

The Applicant supports the argument by stating "An operator element, by definition, is configured to be engaged by the operator...The claimed operator element is configured to both steer the soil compaction device and control its direction of travel".

The Applicant also argues "the resulting product would not include an 'operator element' as defined by the rejected claims".

However, the "operator element" is not defined by the claim. The claims only describe the functional expectations of an "operator element". Further, it is unclear as to how "controlling the direction of travel...of the device" and "to steer the...device"; are to be considered specific and separate functions to be performed by the same structure as claimed.

Still further, Waschulewski clearly discloses in Col. 4, ln. 60-Col. 6, ln. 29, that the Bowden cable (60), which is used in conjunction with other structural elements, to develop a torque which acts in opposition to the torque caused by the centrifugal force of the shaft 22 (which further comprises the eccentric weight); to change the phase relationship between the eccentric masses. Although Waschulewski does not specifically recite the use of an operator element in the form of a "joystick" as is

specified on page 2, lines 24-26 of the instant application, it is inherent to the teaching of Waschulewski that the Bowden cable (60) must be connected to some form of "actuation device", else the Bowden cable (60) would be unable to perform the cited function, in Cols. 4-6 of the reference. Therefore, the Bowden cable (60) alone was not cited as being the sole constituent of an "operator element", but rather, the Bowden cable (60) in conjunction with other structural elements, such as a handle, actuation arm etc, causes the rotation of the eccentric shaft to change, slower or faster, in order to change the phase relationship between the plurality of eccentric shafts, in order to change/control the direction of travel of the compacting device. See col. 4, lines 31-66. Hence, since the "operator element" of the present invention is limited to a "joystick", and it is inherent, some form of actuation device, such as a joystick, must be present on the vibration compactor of Waschulewski, in order to activate the Bowden Cable (60) to cause a change in the phase relationship between eccentric shafts (22, 28), thereby causing a change/control of the direction of travel/steering of the compacting device; the argument is not persuasive.

The Applicant furthers the argument against the rejection of claims 1, 3-5 by stating "Crum et al. teaches a handle bar mounted controller, integrating the Crum et al. controller with the Bowden cable arrangement of Waschulewski would not yield the present invention".

The Applicant supports the argument by suggesting "Incorporating the controller of Crum et al. in the Waschulewski compactor would render the complex shifting arrangement/Bowden cable coupled to a positioning device unnecessary... In other words, the structure in Waschulewski that the Examiner contends is the operator element, would no longer be present in such a hypothetical combination".

However, the Waschulewski and Crum et al. references were combined to show the obviousness of providing a "position sensor" in the form of a Hall effect type potentiometer to a powered vehicle.

The Hall effect type potentiometer being a rotary position sensor, a mechanical interface between the position sensor and a handle bar or guide handle, such that movement of the handle actuates the mechanical interface, which in turn alters the position of the movable element. Hence, since it is inherent the compactor of Waschulewski must have some form of handle bar, actuation lever etc. to actuate the Bowden cable to change the rotational position of the eccentric shaft, and that Crum et al. teaches it is desirable to improve the efficiency of an operator and the efficiency of internal combustion engines by providing electronic control circuitry to monitor various parameters and provides feedback on the machines functions.

Finally the Applicant argues "Crum et al. is non-anal(o)gous art... is directed to a throttle mechanism that is employed in a system, such as a jet-ski, that requires some sort of controller to perform the desired operation... Throttle controls of the type disclosed in

Crum are very simple...they require nothing more than twisting of a twist grip for their implementation...the degree of throttle movement is proportional to the stroke of the twist grip...these teachings cannot be logically applied to a much more complex steering and propulsion control system of the type employed by a vibratory plate compactor...the resulting system would only shift the direction of movement of the vibration plate upon manipulation of some unspecified operator control(operator element)...it would not both steer and shift the machine.

However, In response to applicant's argument that Crum et al., is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Claim 1 requires a position sensor, Claim 4 positively recites a "Hall sensor". To that effect, Crum et al. teaches it is desirable to improve the efficiency of machines by providing an electronic control circuit comprising a Hall effect, rotary position sensor to control and provide feedback from an engine, a motor or the like. Hence, the references were combined to show the obviousness of improving the efficiency of a machine by providing an electronic control assembly having a Hall effect device.

Therefore, the argument is not persuasive.

Applicant argues against the rejection of claims 1-5, 8 as being unpatentable over Stoecker in view of Ishibashi et al., by stating "the handle 16 of Stoecker compactor performs physical work to steer the compactor in contrast to the operator element of the present invention...the handle 16 itself lacks the capability of either shifting or steering the machine...Moreover in view of this fact, there was no motivation or suggestion in the references to combine the sensor of Ishibashi et al. with the Stoecker compactor as the combination would not yield the present invention as defined in the rejected claims... In other words, the combination would not include an easily positionable operator element as required by Claim 1".

However, Claim 1 does not require a "easily positionable operator element"; Claim 1 only positively recites "at least one manually engageable moving operator element configured to control the positioning unit".

Hence, the operator element is only required to be "configured to control the positioning unit"; and not to control the direction of travel and steer the device, as argued.

It is noted in Claim 1 that it is a sensor unit that is "provided to determine the position of the operator element and produce a signal to control the positioning unit so as to control the direction of travel".

Hence, by Applicant's own admission, it is the sensor unit and not the operator handle that controls the positioning unit so as to control the direction of travel.

Further, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the Applicant has failed to specifically address alleged deficiencies in the reference to Ishibashi et al.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. With respect to the combination of Stoecker '080 in view of Ishibashi et al. '768, Applicant has failed to specifically point out how the claim language patentably distinguishes them from the references. Applicant has only asserted that deficiencies exist in the references, but has not pointed out how or what specific claim language patentably distinguishes them from the references.

Stoecker clearly discloses a **preferred embodiment** wherein shift lever (93) is actuated by a shift bar (111) that is mounted to a kicking plate (116). However, Stoecker further discloses in Col. 5, Ins. 39-49, that "any suitable means may be provided to move shift lever (93) in the manner described". Further, Stoecker discloses the operator element (116) is attached to the guide element (16) via base plate (140). Hence the argument is not persuasive.

Note to Applicant:

Since the Applicant has not put forth any arguments against the 35 U.S.C. 103(a) rejection of claims 1-6, 8 as being unpatentable over Riedl '778 in view of Crum et al. '230, it is seen that the Applicant is in agreement with the rejection as put forth in the Last Office Action.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant's amendment to claim 1 has raised 112 1st paragraph issues relating to how the device is controlled or adjusted to cause a yawing motion, i.e. steering the device.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

RWA
3/11/2003